

**Appl. No.: 09/802,701**  
**Amdt. dated December 7 2005**  
**Reply to Office Action of August 12, 2005**

### **REMARKS/ARGUMENTS**

#### **Status of the Claims**

Claims 1-5 and 7-18 were pending. Claims 1, 3 and 15-17 stand rejected under 35 USC 102(e) as anticipated by O'Shaughnessy U.S. Patent 6,484,151. Claims 2, 4, 5, and 7-14 stand rejected under 35 USC § 103(a) as being unpatentable over O'Shaughnessy U.S. Patent 6,484,151 in view of Weiss et al. (hereinafter Weiss) U.S. Patent 5,866,889. Claim 18 stands rejected under 35 USC § 103(a) as being unpatentable over O'Shaughnessy U.S. Patent 6,484,151 in view of Musmanno et al. (hereinafter Musmanno) U.S. patent 5,940,809.

#### **Rejections Under 35 USC §§ 102 and 103**

Claims 1, 3 and 15-17 stand rejected under 35 USC 102(e) as anticipated by O'Shaughnessy U.S. Patent 6,484,151. On page 2 of the Office action, the Examiner states that Applicants' previously submitted arguments are unpersuasive, and claims 1-5 remain rejected as stated in the previous office action mailed 23 December 2004.

The Examiner states on page 2 of the Office Action:

Regarding independent claim 1, Applicant asserts that O'Shaughnessy fails to reach (sic) authorizing a real-time transfer of investment funds. However, O'Shaughnessy does teach that a buy order form which is executed in real time for a transaction (column 10, lines 39-47). The purchasing of the stocks in real time is in fact a real-time transfer of investment funds through reasonable interpretation. The claims do not specify which account the investment funds originate from or are transferred to. The Examiner would like to remind the Applicant that claims must be given their broadest reasonable interpretation and therefore the Examiner's position stands as previously stated.

Office Action of August 12, 2005, p. 2.

The passage at column 10, lines 39-47 of O'Shaughnessy reads:

Referring now to FIG. 7, once the user has finalized the selections, the user is asked whether they have an account at an online broker at block 701. Assuming that they do have an account at an online broker, the PMP places a buy order form which is executed by the user at block 702. This preferably happens in real-time. Once the trade has been executed, a custom performance sheet is generated to indicate that the transaction has been completed.

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The Examiner also reiterates the previous rejection contained in the Office action of December 23, 2004 wherein the Examiner cited to O'Shaughnessy, column 12, lines 12-20.

The Applicant respectfully traverses the Examiner's rejections.

As an initial matter, as O'Shaughnessy expressly references, the "real-time" placement of a buy order form at block 702 of O'Shaughnessy applies only when it is assumed that the user already has an online broker ("Assuming that they do have an account at an online broker, ..."). When the user does not have an online broker (or wants to open a new account with a different broker), the passage at column 12, lines 12-20 seemingly would apply. But without question, the passage cited by the Examiner of column 10, lines 39-47 in O'Shaughnessy expressly makes clear that it does not apply to a situation where a new brokerage account is being opened.

Claim 1 has been amended to make clear that the account agreement authorizes the establishment of a brokerage account with an online broker. As indicated in the Applicant's last response, the text at column 12, lines 12-20 makes no teaching or suggestion that a newly opened brokerage account could be accompanied by a real-time transfer of investment funds. In fact, O'Shaughnessy clearly contemplates that newly-opened brokerage accounts would *not* be accompanied by a real-time transfer. At col. 12, lines 45-56, O'Shaughnessy teaches

Once the account is opened at a new broker at block 704, the user is queried at block 705 whether they want their money automatically invested when it is received by the broker. This is important because it may take a little while for the user's money to be made available to the broker ... . If the user declines to take that option at block 705, it is preferred that the user's chosen proposed portfolio is saved so that the user can return to authorize the trade once the money arrives at the broker.

(emphasis added). This is exactly the sort of problem with existing processes described at page 4 of Exhibit "A" attached to Applicant's Rule 131 Declaration, response to Office action dated June 8, 2004. As stated there

However, even if the user fills-up the application online, they still have to wait for a few days before their account can be opened and ready for trade. During all these business days, the customer may lose (sic) some

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good opportunities to trade stocks in the stock market. This delay in account opening and loss of trading opportunities in the stock market losses (sic) many new prospects for E\*Trade.

Thus, O'Shaunnessy is the sort of system that the present invention acknowledges as being present in the prior art, and was created to overcome. O'Shaughnessy's teachings regarding the opening of a brokerage account simply fail to suggest a real-time transfer of investment funds as expressly required by the claims. For at least this reason, independent claim 1 and its dependent claims 2-5 are allowable over the cited prior art.

Claim 1 has also been further amended to specify that the investment funds are to be transferred *into* the brokerage account. This amendment takes into consideration the Examiner's warning that "purchasing of the stocks in real time is in fact a real-time transfer of investment funds through reasonable interpretation." OA of 8/12/05, p. 2. Of course, when securities are purchased with funds residing in a brokerage account, the amount of the funds in the brokerage account is reduced and the funds are transferred *out of* the brokerage account, the exact opposite of what is now recited in claim 1.

These amendments are believed to distinguish the basis of the Examiner's rejections. For both of the above reasons, independent claim 1 and its dependent claims 2-5 are allowable over the cited prior art.

With respect to the source recited in claim 3, a credit card charge, the Examiner cites to column 9, lines 32-52 for a teaching in O'Shaughnessy of an automated credit card charge. There, O'Shaughnessy refers to "(e.g. credit card or other information regarding payment)" where there is a first fee and a second fee. The first fee is paid to the company generating the information to the user, with the second fee is paid by an independent broker depending on the arrangement between the company and the user.

Thus, according to O'Shaughnessy, the credit card information is for payment of a fee -- not for deposit into a brokerage account as required by present claim 1. Nowhere in the cited text is it expressly or inherently suggested that the credit card should be the real-time source of funds for a brokerage account.

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In addition, there is no teaching or suggestion here that investment funds are transferred in real time. Even assuming (only for the sake of argument) that a credit card is the source of investment funds, there would be no inherent teaching of a real-time transfer as many credit card charges do not result in a real-time transfer of funds.

Claims 2, 4, 5 and 7-14 stand rejected under 35 USC 103(a) as being unpatentable over O'Shaughnessy US Patent 6,484,151 in view of Weiss et al. (hereinafter Weiss) US Patent 5,866,889.

On page 6 of the Office action, the Examiner states that O'Shaughnessy teaches transferring of funds involving a bank transfer (column 12, lines 45-59). The Examiner admits that O'Shaughnessy fails to specify that the bank transfer is for a checking account but takes Official Notice that bank transfers of funds from checking accounts are old and well known in the art. Therefore, according to the Examiner, it would have been obvious at the time of the Applicant's invention to modify the teachings of O'Shaughnessy to include bank transfers from checking accounts because it is an efficient means to provide money from one party to another for payment of a good or service.

The Applicant respectfully traverses the Examiner's rejection.

The teachings of O'Shaughnessy and Weiss are not properly combined in the manner suggested by the Examiner in the rejection of claim 2. Although no explanation for the combination of O'Shaughnessy and Weiss is provided by the Examiner, the Examiner instead relying on Official notice that transfers from checking accounts are known in the art, the Applicant submits that the obviousness of claim 2 over O'Shaughnessy is misplaced.

The Examiner has misinterpreted the teachings of O'Shaughnessy. The source recited in claim 2, an automated clearing house (ACH) transfer from a checking account, is a bank transfer, not an online broker. The passage cited by the Examiner at column 10, lines 39-47 of O'Shaughnessy for the proposition of a real-time transfer of funds applies only when the transfer is from an online broker. In contrast, at column 12, lines 45-59, O'Shaughnessy states that it may take a day or two for a bank transfer to be effective. Thus, claim 2 is not obvious over O'Shaughnessy because

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O'Shaughnessy expressly provides that the transfer recited in claim 2 is not an online broker transfer, the only funds transfer O'Shaughnessy teaches that is a real-time transfer.

With regard to claims 7-18, the Examiner acknowledges that Applicant's arguments, filed 22 April 2005, were considered persuasive. The Examiner's rejection was withdrawn but a new ground of rejection was imposed. OA of 8/12/05, p. 2.

Claims 7-14 stand rejected under 35 USC 103(a) as unpatentable over O'Shaughnessy US Patent 6,484,151 in view of Weiss US Patent 5,866,889. The new rejection of claims 7-14 begins on page 6 of the Office action, which reads

Claim 7, O'Shaughnessy teaches a trading system that comprises: at least one computer coupled to a network and configured to maintain a brokerage account database (column 4, lines 14-23); at least one computer coupled to the network and configured to use a plurality of web page templates to service web page requests received over the network (column 4, lines 14-23 and Figure 8), wherein the web page templates are configured to implement a real-time account opening process that establishes new brokerage accounts in a brokerage database (column 12, lines 12-20). O'Shaughnessy fails to specify obtaining contact information, creating a new record in the brokerage account database reflecting the contact information and updating said new record in accordance with said brokerage account application information. Weiss teaches steps to open an account that consist of gathering contact information or updating contact information in accordance with a brokerage account (column 14, lines 18-29 and Figure 4A and column 19, lines 1-7). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of O'Shaughnessy and include the teachings of Weiss because the terms and conditions taught by O'Shaughnessy would not be effective or detailed without specifying and updating contact information of the named individual for whom the account belongs.

The Applicant respectfully submits that the combination of O'Shaughnessy and Weiss as suggested by the Examiner does not make obvious claim 7.

Claim 7 requires "the web page templates [being] configured to implement a real-time account opening process that establishes new brokerage accounts in the brokerage account database". The text of O'Shaughnessy cited by the Examiner for this teaching, column 12, lines 12-20, actually teaches away from a real-time account opening. In particular, the cited text of O'Shaughnessy reads

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...If PMP is directing the client to a broker, a unique order form for opening the brokerage account is generated identifying PMP as the portal through which the new client was generated so that the broker will agree when it clicks through to pay pre-specified amount of money to PMP for the placement of a new client.

As explained immediately after the cited text in O'Shaughnessy, the "click through" refers to a brokerage agreeing to pay the PMP a sum of money in order to acquire the account as a customer. For example, the broker may pay the PMP \$100-\$300 because the typical cost of acquiring a new customer is \$200-\$400. O'Shaughnessy, column 12, lines 21-44. Any teaching that may be provided about the brokerage account being opened real-time is vague and confusing. The cited text of O'Shaughnessy clearly contemplates that the opening of the brokerage account will wait until the broker agrees to pay the PMP a pre-specified amount of money. The wait is of an indeterminate time, an amount of time assumedly determined by the broker before it "clicks through" to pay money to the PMP. This is not equivalent to a real-time opening.

The Examiner cites to the second full paragraph of column 14, Figure 4A, and column 19, lines 1-7 for the proposition that Weiss teaches steps to update contact information in accordance with a brokerage account. However, nowhere in the cited text does Weiss refer to a broker or a brokerage account. In fact, the text cited by the Examiner at column 19 does not appear directed toward a brokerage account, but rather toward the circumstance when a customer seeks a loan from a bank. See generally *Weiss*, column 18.

Weiss refers in its abstract to an integrated financial system that includes a single customer account that permits a customer to perform various financial transactions. The account includes at least banking components and brokerage components. According to Weiss, an advantage of Weiss is to provide a single, consistent user interface for numerous accounts.

The Applicant would emphasize to the Examiner that the claimed method is not the all-in-one setup contemplated by Weiss for its single account. Instead, the steps recited in claim 7 for a real-time account opening process that establishes new brokerage accounts in the brokerage account database are, in part, as follows:

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- obtaining contact information;
- creating a new record in the brokerage account database reflecting said contact information;
- obtaining brokerage account application information;
- updating said new record in accordance with said brokerage account application information;
- displaying a brokerage account contract; and
- securing online agreement to said brokerage account contract.

These steps are generally shown in Figure 5 of the application.

The text cited by the Examiner in Weiss refers to the flow chart of Figures 4A-4E, after the account selection/needs assessment step is complete. As shown in Figure 4A, the process involves collecting identification and information such as ownership of the account, the name of the customer, the home address and phone number, citizenship, social security number and date of birth. Weiss, column 14, lines 18-28. It is instructive, however, to refer to the discussion in Weiss beginning at column 17, line 57. There, it states that if the user selects the brokerage component, the system follows the flow shown in Figure 5G. In particular, the user must enter an appointment date and time or ask for a call back. "The reason for this is that typically information relating to building the securities component must be handled by a licensed bank employee." Weiss, column 17, line 58-63. Information obtained in the brokerage section will be investment information and any other information that may be specific to brokerage. According to regulations, investment information can only be discussed with a customer by a licensed individual. Therefore access to this screen will be limited to licensed individuals. Weiss, column 18, lines 1-7. While Weiss appears to obtain contact information, with respect to a brokerage account, the purpose of obtaining this information is to arrange a meeting between the individual and the bank. There is no express teaching or suggestion of a brokerage account database in Weiss in which this contact information would then be stored, or that brokerage account information separate from the contact information would be obtained, or that the record in the brokerage account database updated with the brokerage account information. Perhaps even more tellingly, the express teaching in Weiss that a meeting is to be set up between the individual and the bank suggests the absence of these two steps: 1)

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displaying a brokerage account contract; and 2) securing an online agreement to the brokerage account contract.

At most, Weiss teaches obtaining contact information. Its combination with O'Shaughnessy does not render claim 7 obvious.

Claim 8 recites automatically initiating a transfer of funds from a financial account, followed by updating the record with a buying power greater than zero. Claim 8 has been amended to clarify that the transfer of funds is from the financial account *into* the brokerage account.

The Examiner cites to O'Shaughnessy, column 9, lines 43-52 and column 12, lines 45-59. However, there is no teaching in O'Shaughnessy of the steps now recited in claim 8.

The passage cited by the Examiner at column 9 begins discussion of a hypothetical for the user. It does not state that the funds have actually been deposited in an account. Instead, it proposes certain stocks based on a given stock-picking strategy preferred by the user. The hypothetical stock selections are accepted or rejected by the user. When the user has chosen a desirable mix of stocks, O'Shaughnessy explains at column 10, lines 39-46 that the PMP asks the user whether he has a pre-existing account at an online broker. If so, the PMP places a buy order form which is executed by the user at block 702.

The cited passage at column 12, lines 45-59 in O'Shaughnessy does not teach to automatically initiate a transfer of funds. Instead, it asks only whether the funds should be automatically invested (i.e. whether the securities should automatically be purchased) *after* the funds have been transferred. The time frame in which the funds are transferred is not addressed.

Claims 10 and 11 are allowable for generally the same independent reasons as provided above when arguing the allowability of claims 2 and 3.

Claim 15 recites "the web page templates are configured to implement a real-time account opening process that establishes new brokerage accounts in the brokerage account database". As explained with respect to claim 1, the applied prior



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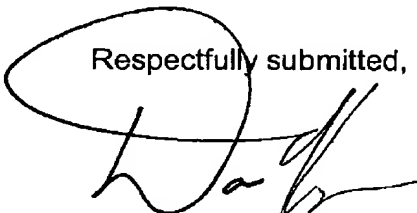
art does not teach a real-time account opening process that establishes a new brokerage account.

Conclusion

In the course of the foregoing discussions, applicant may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art which have yet to be raised, but which may be raised in the future.

If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769/1991-00100/HDJK.

Respectfully submitted,



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